

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claims 1-15 are, the phrase "may be" of claim 1 renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "may be"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claims 1-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The assembly is removable from freezer cabinet is not supported by the figures. The side by side disposed dispensing assembly housing 10 and freezer cabinet 1 are not removable from one another because the dispensing assembly 10 is permanently connected with the freezer cabinet 1 by a non disconnectable pipe 22 as shown in Figs 1-2. There is no disconnect is available with the pipes 22.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3 and 9-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,671,319 to Bortz in view of U.S. Patent No. 2,429,294 to Pollock. Bortz discloses the claimed invention of a display and dispensing assembly comprising a freezing cabinet A, a housing located externally of the freezer cabinet and a chamber C, D, and E within the housing for storing and dispensing products. The products are stored at a temperature which is clearly disclosed as being higher than the temperature of the freezer cabinet. See, for example, column 2, lines 13-34, which states that the temperatures of the freezer cabinet A can range between 0 and 5 degrees F, while the temperatures in the housing can range between 33 and 38 degrees F. Bortz further discloses the first heat transfer means 18 within the housing, as well as a second heat transfer means surrounding the container 25 and is located inside the freezer cabinet. Thus, Bortz discloses the claimed invention except for the means for circulating a heat transfer fluid through the first and second heat transfer means, and for the tubes passing over a side of the freezer cabinet. Pollock teaches a refrigerator apparatus which includes a first heat transfer means (14) located outside the display space (display shelves 4), a second heat transfer means (15) located inside the

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display space, and means including a pump (9) for circulating a heat transfer fluid between the first (14) and second (15) heat transfer means. Thus, it would be obvious to provide Bortz with means including a pump for circulating a heat transfer fluid through the first and second heat transfer means, in view of Pollock, to yield the predictable result of accurately maintaining the separate temperatures in the two zones. The recitation of the assembly being removable; Pollock discloses refrigerating storage chamber (1) is removable from the freezer chamber (6) for the purpose of easy transportation from sale place to the installation place in the residence or else. Therefore, it would have been obvious to provide removable display and freezer compartment of Bortz in order to achieve the easy transportation facilities to the installation site. Also, the location of the first and second heat transfer means being connected by tubes that pass over a side of the freezer cabinet is considered to be a matter of obvious design choice to one of ordinary skill in the art. One of ordinary skill in the refrigeration art would be able to locate the tubes in any configuration desired, without undue experimentation. No criticality or unexpected results are seen or have been disclosed for the recitation of the connecting tubes being located over a side of the cabinet. The recited temperatures are also considered to be matters of obvious choice to one of ordinary skill in the refrigeration art, as any desired temperature can be achieved by the skilled operation of the refrigeration system.

Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bortz in view of Pollock as applied to claim 1 above, and further in view of U.S. Patent No. 5,524,453 to James, newly cited. Bortz in view of Pollock discloses the claimed

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invention except for the second heat transfer means comprising a case of pipe work around a case of a thermally conductive eutectic material. James teaches a refrigeration system comprising a first system 3, 14-17, a second system 10-12, and a case that includes a eutectic material, as taught in column 3, lines 16-19. Thus, it would be obvious to modify Bortz in view of Pollock with a eutectic material, in view of James, to yield the predictable result of preventing contamination of the fluids in the two systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD ALI whose telephone number is (571)272-4806. The Examiner can normally be reached on Monday through Thursday from 8.30 am to 12 Noon and from 1 pm to 5.30 pm and on Friday from 6 am to 11.30 am and from 2.30 pm to 5 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jules Frantz can be reached on 571-272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/MOHAMMAD ALI/  
Primary Examiner, Art Unit 3784